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UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA  
AT JUNEAU

MYRNA I. JOHNSON,

Plaintiff,

Case No. 1J-04-008-CV (RRB)

v.

FRED MEYER STORES, INC., a  
Delaware Corporation, and  
JAIME SAN MIGUEL,

Defendants.

**DEFENDANT FRED MEYER'S**  
**SUPPLEMENTAL PROPOSED JURY INSTRUCTIONS**  
**WITH CITATIONS**

Defendant Fred Meyer Stores, Inc., hereby requests that the Court give the  
attached supplemental instructions to the jury during the trial of this matter.

RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of July, 2008.

MILLER NASH LLP

s/ James R. Dickens

James R. Dickens

ABA No. 0610063

GRUENSTEIN & HICKEY

s/ James R. Dickens

Peter Gruenstein

ABA No. 7910079

Attorneys for Defendants

INSTRUCTION NO. \_\_\_\_\_

If you find in favor of plaintiff on her claim of wrongful discharge, as defined for you in another instruction, plaintiff has a duty to mitigate damages by seeking lawful employment. To the extent that the plaintiff was neither engaged in nor seeking lawful employment because she was engaged in unlawful activity, you may consider that fact in evaluating to what extent, if any, she fulfilled or failed to fulfill her obligation to mitigate damages.

Any earnings or income plaintiff received from any unlawful activity should be considered in evaluating any alleged damages incurred by plaintiff.

INSTRUCTION NO. \_\_\_\_\_

The evidence that the plaintiff was convicted of a crime may be considered, along with all other evidence, in deciding whether or not to believe the plaintiff and how much weight to give to her testimony and for no other purpose.